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NEWS OF THE WEEK

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AAP Warns Review Decree Could Punish Publishers

At least 49 books published in the past 12 years—including those by Henry Kissinger and former presidents—would have to have been cleared or censored by various government agencies before publication if President Reagan's recent directive on prepublication review had been in force, according to the Association of American Publishers. The AAP also warned that the directive could be used to take punitive action against publishers who failed to make sure an author was living up to his perceived obligations to the government.

The AAP's contentions were included in written testimony to two House subcommittees that held a joint hearing April 28 on Reagan's directive to expand the CIA's prepublication review process to cover all government officials or contractors with access to "sensitive compartmented information." Although the administration won't release the number of government officials who would be covered by the expansion, one estimate placed it in excess of 100,000.

At the April 28 hearing, Rep. Don Edwards (D., Calif.), chairman of one of the subcommittees, questioned CIA officials closely about whether they treat authors such as E. Howard Hunt and Frank Snepp equally.

(The Supreme Court decision three years ago upheld the CIA process, which resulted in Snepp's paying the federal government all the royalties from his book, *Decent Interval* [Random House], and submitting two novels for clearance.)

Edwards asked Charles E. Wilson, chairman of the CIA Publication Review Board, whether all of Hunt's novels had been reviewed by the CIA. "No, not all of them," Wilson replied, but added, "Mr. Hunt has been fairly faithful" in making the submissions.

"There is a specific reason for reviewing a work of fiction . . . when a work of fiction gets too close to fact," Wilson said. "Mr. Hunt has voluntarily submitted several of his novels for our review, and I assume because he wanted to be absolutely certain that his fictitious account was not getting too close to fact."

Wilson added that Hunt's failure to

agreement unless the material that he wrote about fit the guidelines under which the Publications Review Board operates," meaning the author had been exposed to classified materials.

Snepp, who sat in the audience taking notes on the hearing for an upcoming book for Random House on the incidents surrounding his landmark case, told *PW* that the CIA had misrepresented the situation.

He noted that Wilson and Ernest Mayerfield, CIA deputy general counsel who handles the prepublication review process, made it appear that only certain writings by agents and former agents had to be cleared. The agency

signalled his lawyers that he would be immediately subjected to prosecution if he failed to get prepublication review on anything he wrote or said in a speech, Snepp said. "I have to submit just so they can see if I should have submitted," he said, and suggested the same treatment is given all authors who publish works unfriendly to the CIA.

His next book for Random House, he said, promises to create another stir because during his successful lawsuit against the government, several bits of classified information were divulged. He plans to put them in this book, which will have to be cleared by the CIA, he said, but noted that recent administration directives allow the government to reclassify material already made public.

One of the authors caught in a similar snare was Ralph W. McGehee, whose *Deadly Deceits* (Sheridan Square) was

published earlier this year with a section outlining his two-year experience in getting the CIA to clear his manuscript. When McGehee's case was mentioned to Wilson, he said the author's assertions were incorrect.

"Over the course of two years, Mr. McGehee made several submissions to the CIA for clearance," Wilson said. He said the submissions involved "three lengthy manuscripts, each of which was yet another attempt to end up with a successfully reviewed and authorized" manuscript for the publish-

ers. McGehee also made his submissions a chapter at a time, causing the review process to take longer than normal, Wilson said. "We are not talking about one review, we are talking about numerous reviews."

The AAP's testimony attacked the review process as a violation of the First Amendment that "cannot help but have a pronounced chilling effect on the publishing process and a devastating impact on informed public discussion which is at the heart of our system of democratic government."

The AAP list of books that would have been reviewed had the directive been in force, compiled after a random sampling, includes works by John Dean, John Kenneth Galbraith, W. Averell Harriman, Hubert Humphrey and Arthur Schlesinger.

Besides slowing down the writing process, the review directive will "cripple" the ability of an author to deal with a publisher "until after the writing has been approved for publication," according to the AAP. This will lead to "dulling, frustrating or destroying the incentive of present or former government officials to write and seek to be published. Further, as a practical matter, the inability of author and publisher to collaborate throughout the process of development of a manuscript also will result in the publication of fewer works."

Another threat lies in having members of one administration empowered to pass judgment upon the writings of those they replace. "The latitude afforded under the directive will inevitably invite both delay in publishing and

politically motivated excisions which will have the effect of harassing those who would criticize their political successors," the AAP commented.

The association also told the panels that it was concerned that breaches of nondisclosure agreements might be enforced "against third parties such as book publishers. The destructive impact of the directive on the public's right to be informed on matters of deep concern can only be exacerbated by the serious chance that a publisher who publishes a book not cleared by the government will be subject to onerous penalties The effect of the direc-